

1 Stephen M. Doniger (SBN 179314)
2 stephen@donigerlawfirm.com
3 Scott A. Burroughs (SBN 235718)
4 scott@donigerlawfirm.com
5 Trevor W. Barrett (SBN 287174)
6 tbarrett@donigerlawfirm.com
7 Justin M. Gomes (SBN 301793)
8 jgomes@donigerlawfirm.com
9 DONIGER / BURROUGHS
10 603 Rose Avenue
11 Venice, California 90291
12 Telephone: (310) 590-1820
13 Attorneys for Plaintiff

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17 **UNITED STATES DISTRICT COURT**
18 **CENTRAL DISTRICT OF CALIFORNIA**

19 UNICOLORS, INC., a California
20 corporation,

21 Plaintiff,

22 v.

23 A3 DESIGN, INC., a California
24 Corporation; SUPERLINE, INC., a
25 California Corporation; PRISTINE, a
26 Business Entity of Form Unknown;
27 PINKQUEEN, a Business Entity of
28 Form Unknown individually and doing
business as “MELODIC DAY”; and
DOES 1 through 10,

Defendants.

Case No.:

PLAINTIFF'S COMPLAINT FOR:

1. COPYRIGHT INFRINGEMENT;
2. VICARIOUS AND/OR
CONTRIBUTORY COPYRIGHT
INFRINGEMENT

Jury Trial Demanded

Plaintiff UNICOLORS, INC., by and through its undersigned attorneys, hereby
prays to this honorable Court for relief as follows:

JURISDICTION AND VENUE

1. This action arises under the Copyright Act of 1976, Title 17 U.S.C., § 101 *et seq.*

2. This Court has federal question jurisdiction under 28 U.S.C. § 1331 and 1338 (a) and (b).

3. Venue in this judicial district is proper under 28 U.S.C. § 1391(c) and 1400(a) in that this is the judicial district in which a substantial part of the acts and omissions giving rise to the claims occurred.

PARTIES

4. Plaintiff is a corporation organized and existing under the laws of the State of California with its principal place of business located in Los Angeles County.

5. Plaintiff is informed and believes and thereon alleges that Defendant A3 DESIGN, INC. ("A3") is a corporation organized and existing under the laws of the state of California.

6. Plaintiff is informed and believes and thereon alleges that Defendant SUPERLINE, INC. (“SUPERLINE”) is a corporation organized and existing under the laws of the state of California.

7. Plaintiff is informed and believes and thereon alleges that Defendant PRESTINE is a business entity of form unknown, with its principal place of business located at 777 E. 12th St. #1-12, Los Angeles, California 90021.

8. Plaintiff is informed and believes and thereon alleges that Defendant PINK QUEEN, individually and doing business as "MELODIC DAY" (collectively, "PINK QUEEN") is a business entity of form unknown, with its principal place of business located at 10685-B Hazelhurst Dr. # 14607, Houston, TX 77043, and is doing business in and with the state of California.

9. Defendants DOES 1 through 10, inclusive, are other parties not yet identified who have infringed Plaintiff's copyrights, have contributed to the

1 infringement of Plaintiff's copyrights, or have engaged in one or more of the
2 wrongful practices alleged herein. The true names, whether corporate, individual or
3 otherwise, of Defendants 1 through 10, inclusive, are presently unknown to Plaintiff,
4 which therefore sues said Defendants by such fictitious names, and will seek leave to
5 amend this Complaint to show their true names and capacities when same have been
6 ascertained.

7 10. Plaintiff is informed and believes and thereon alleges that at all times
8 relevant hereto each of the Defendants was the agent, affiliate, officer, director,
9 manager, principal, alter-ego, and/or employee of the remaining Defendants and was
10 at all times acting within the scope of such agency, affiliation, alter-ego relationship
11 and/or employment; and actively participated in or subsequently ratified and
12 adopted, or both, each and all of the acts or conduct alleged, with full knowledge of
13 all the facts and circumstances, including, but not limited to, full knowledge of each
14 and every violation of Plaintiff's rights and the damages to Plaintiff proximately
15 caused thereby.

CLAIM RELATED TO DESIGNS GT1148 AND 503252

16 11. Prior to the conduct complained of herein, Plaintiff composed an original
17 two-dimensional artwork for purposes of textile printing, which is set forth
18 hereinbelow. It allocated this artwork Plaintiff's internal design number GT1148
19 (hereinafter the "Subject Design"). This artwork was a creation of Plaintiff and/or
20 Plaintiff's design team, and is, and at all relevant times was, owned exclusively by
21 Plaintiff.

22 12. Plaintiff applied for and received a United States Copyright Registration
23 for the Subject Design. This registration for the Subject Design was assigned
24 Registration Number VA 1-925-701.

25 13. Plaintiff created the Subject Design based on an original two-dimensional
26 artwork that previously composed by Plaintiff, and allocated internal design number
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1 503252 (hereinafter the “Source Artwork”). This artwork was a creation of Plaintiff
2 and/or Plaintiff’s design team, and is, and at all relevant times was, owned
3 exclusively by Plaintiff.

4 14. Plaintiff applied for and received a United States Copyright Registration for
5 the Source Artwork. The registration for the Source Artwork was assigned
6 Registration Number VA 1-626-551.

7 15. Prior to the acts complained of herein, Plaintiff sampled and sold fabric
8 bearing the Subject Design and Source Artwork to numerous parties in the fashion
9 and apparel industries. True and correct images of the Source Artwork Subject
10 Design are presented below:

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12 Source Artwork:
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Subject Design:



16. Plaintiff is informed and believes and thereon alleges that, following this distribution of fabric bearing Subject Design and Source Artwork, A3, SUPERLINE, PRESTINE, PINK QUEEN, and certain DOE Defendants created, sold, manufactured, caused to be manufactured, imported and/or distributed fabric and/or garments comprised of fabric bearing an unauthorized reproduction of protectable elements of the Subject Design and Source Artwork (“Subject Product”). Such Subject Product includes but is not limited to the following:

a. A3 garments sold at Steps retail stores under, *inter alia*, SKU or Style No. A3DSS50053. Such Subject Product bore the “A3 Design” label, and identifying information indicating said garments were

1 manufactured by, caused to be manufactured by, or supplied by A3.

2 See below for true and correct images of one such garment with tags:



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20 b. SUPERLINE garments sold under, *inter alia*, Style No. 1098LP. See
21 below for true and correct images of one such garment with tags:

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16 c. PRESTINE garments sold online by Zenu Fashion under, *inter alia*,
17 SKU or Style No. 8325. Plaintiff is informed and believes, and
18 thereon alleges that said garments were manufactured by, caused to
19 be manufactured by, or supplied by PRESTINE. See below for true
20 and correct images of two such garments:

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d. PINK QUEEN garments sold under, *inter alia*, SKU or Style No. PLG4277RE. See below for true and correct images of one such garment with tags:

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17 Plaintiff is informed and believes and thereon alleges that Defendants, and
18 each of them, have committed copyright infringement with actual or constructive
19 knowledge of Plaintiff's rights and/or in blatant disregard for Plaintiff's rights, such
20 that said acts of copyright infringement were, and continue to be, willful, intentional
21 and malicious, subjecting Defendants, and each of them, to liability for statutory
22 damages under Section 504(c)(2) of the Copyright Act in the sum of up to one
23 hundred fifty thousand dollars (\$150,000) per infringement.

24 18. A comparison of the Subject Design, Source Artwork, and each non-
25 exclusive exemplar of Subject Product makes apparent that the elements,
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1 composition, arrangement, layout, and appearance of the designs are substantially
2 similar.

3 **FIRST CLAIM FOR RELIEF**

4 (For Copyright Infringement – Against All Defendants, and Each)

5 19. Plaintiff repeats, realleges, and incorporates herein by reference as though
6 fully set forth, the allegations contained in the preceding paragraphs of this
7 Complaint.

8 20. Plaintiff is informed and believes and thereon alleges that Defendants, and
9 each of them, had access to Subject Design or Source Artwork, including, without
10 limitation, through (a) access to Plaintiff's showroom and/or design library; (b)
11 access to illegally distributed copies of the Subject Design or Source Artwork by
12 third-party vendors and/or DOE Defendants, including without limitation
13 international and/or overseas converters and printing mills; (c) access to Plaintiff's
14 strike-offs and samples, and (d) garments manufactured and sold to the public
15 bearing fabric lawfully printed with the Subject Design or Source Artwork by
16 Plaintiff for its customers.

17 21. Plaintiff is informed and believes and thereon alleges that one or more of
18 the Defendants manufactures garments and/or is a garment vendor. Plaintiff is
19 further informed and believes and thereon alleges that said Defendant(s) has an
20 ongoing business relationship with Defendant retailers, and each of them, and
21 supplied garments to said retailer, which garments infringed the Subject Design or
22 Source Artwork in that said garments were composed of fabric which featured
23 unauthorized print design(s) that were identical or substantially similar to the Subject
24 Design or Source Artwork, or were an illegal derivation or modification thereof.

25 22. Plaintiff is informed and believes and thereon alleges that Defendants, and
26 each of them, infringed Plaintiff's copyright by creating, making, and/or developing
27 directly infringing and/or derivative works from the Subject Design or Source

1 Artwork and by producing, distributing and/or selling garments which infringe the
2 Subject Design or Source Artwork through a nationwide network of retail stores,
3 catalogues, and through on-line websites.

4 23. Due to Defendants' acts of infringement, Plaintiff has suffered substantial
5 damages to its business in an amount to be established at trial.

6 24. Due to Defendants' acts of infringement, Plaintiff has suffered general and
7 special damages in an amount to be established at trial.

8 25. Due to Defendants' acts of copyright infringement as alleged herein,
9 Defendants, and each of them, have obtained direct and indirect profits they would
10 not otherwise have realized but for their infringement of the Subject Design or
11 Source Artwork. As such, Plaintiff is entitled to disgorgement of Defendants' profits
12 directly and indirectly attributable to Defendants' infringement of the Subject Design
13 or Source Artwork in an amount to be established at trial.

14 26. Plaintiff is informed and believes and thereon alleges that Defendants, and
15 each of them, have committed acts of copyright infringement, as alleged above,
16 which were willful, intentional and malicious, which further subjects Defendants,
17 and each of them, to liability for statutory damages under Section 504(c)(2) of the
18 Copyright Act in the sum of up to one hundred fifty thousand dollars (\$150,000) per
19 infringement. Within the time permitted by law, Plaintiff will make its election
20 between actual damages and statutory damages.

21 **SECOND CLAIM FOR RELIEF**

22 (For Vicarious and/or Contributory Copyright Infringement - Against All
23 Defendants)

24 27. Plaintiff repeats, realleges, and incorporates herein by reference as though
25 fully set forth, the allegations contained in the preceding paragraphs of this
26 Complaint.

1 28. Plaintiff is informed and believes and thereon alleges that Defendants
2 knowingly induced, participated in, aided and abetted in and profited from the illegal
3 reproduction and/or subsequent sales of garments featuring the Subject Design or
4 Source Artwork as alleged herein.

5 29. Plaintiff is informed and believes and thereon alleges that Defendants, and
6 each of them, are vicariously liable for the infringement alleged herein because they
7 had the right and ability to supervise the infringing conduct and because they had a
8 direct financial interest in the infringing conduct.

9 30. By reason of the Defendants', and each of their, acts of contributory and
10 vicarious infringement as alleged above, Plaintiff has suffered and will continue to
11 suffer substantial damages to its business in an amount to be established at trial, as
12 well as additional general and special damages in an amount to be established at
13 trial.

14 31. Due to Defendants', and each of their, acts of copyright infringement as
15 alleged herein, Defendants, and each of them, have obtained direct and indirect
16 profits they would not otherwise have realized but for their infringement of the
17 Subject Design or Source Artwork. As such, Plaintiff is entitled to disgorgement of
18 Defendants' profits directly and indirectly attributable to Defendants' infringement
19 of the Subject Design or Source Artwork, in an amount to be established at trial.

20 32. Plaintiff is informed and believes and thereon alleges that Defendants, and
21 each of them, have committed acts of copyright infringement, as alleged above,
22 which were willful, intentional and malicious, which further subjects Defendants,
23 and each of them, to liability for statutory damages under Section 504(c)(2) of the
24 Copyright Act in the sum of up to one hundred fifty thousand dollars (\$150,000) per
25 infringement. Within the time permitted by law, Plaintiff will make its election
26 between actual damages and statutory damages.

PRAYER FOR RELIEF

Wherefore, Plaintiff prays for judgment as follows:

Against All Defendants

33. With Respect to Each Claim for Relief

- a. That Defendants, each of them, and their agents and employees be enjoined from infringing Plaintiff's copyrights in any manner, specifically those for the Subject Design and Source Artwork;
- b. That Defendants, and each of them, account to Plaintiff for their profits and any damages sustained by Plaintiff arising from the foregoing acts of infringement, the exact sum to be proven at the time of trial, or, if elected before final judgment, statutory damages as available under the Copyright Act, 17 U.S.C. § 101 et seq.;
- c. That Plaintiff be awarded its attorneys' fees as available under the Copyright Act U.S.C. § 101 et seq.;
- d. That Plaintiff be awarded pre-judgment interest as allowed by law;
- e. That Plaintiff be awarded the costs of this action; and
- f. That Plaintiff be awarded such further legal and equitable relief as the Court deems proper.

A TRIAL BY JURY PURSUANT TO FED. R. CIV. P. 38 AND

CONSTITUTIONAL AMENDMENT SEVEN IS HEREBY DEMANDED.

Respectfully submitted,

Dated: October 5, 2015

By: /s/ Scott A. Burroughs
Scott A. Burroughs, Esq.
Trevor W. Barrett, Esq.
DONIGER / BURROUGHS
Attorneys for Plaintiff
UNICOLORS, INC.